

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:08-cr-119

v.

HON. JANET T. NEFF

SURINDER SINGH DHALIWAL,

Defendant.

MEMORANDUM OPINION AND ORDER

Defendant Surinder Singh Dhaliwal has filed a motion for modification or reduction of sentence (Dkt 402) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission. The U.S. Probation Department has filed a Sentence Modification Report (Dkt 441) and Defendant has filed a Response (Dkt 444).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

Having fully considered the Sentence Modification Report (Dkt 441) and Defendant's response (Dkt 444), the Court has determined that the defendant is ineligible for a reduction of sentence according to the policy statements of the U.S. Sentencing Commission. The defendant

was sentenced below the advisory guideline range based on 18 U.S.C. § 3553(a)(1) factors, and he did not have the benefit of Substantial Assistance, U.S.S.G. § 5K1.1. While this original sentence precludes a reduction of sentence at this time, Defendant wishes to preserve the issue for future consideration should the law change. See *Cvijetinovic v. Eberlin*, 617 F.3d 833, 840 (6th Cir. 2010).

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 402) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

DATED: December 14, 2015

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge